

CIVIL SERVICE COMMISSION

DRAFT MINUTES

Monday – May 3, 2010 – 5:30 p.m.

Reno City Hall – Room 709

One East First Street, Reno, Nevada

MEMBERS

L. D. Lovett, Chair
Joe F. Salinas, Vice-Chair
Jeannie Atkinson
Maureen Cole
Milven Hooper
Bertha Mullins
Ron Nicholson
Ric Bailey, Chief Examiner

1. CALL TO ORDER/ROLL CALL

Chair Lovett called the meeting to order at 5:30 p.m. A quorum was established.

MEMBERS PRESENT: Jeannie Atkinson, Maureen Cole, Milven Hooper, L. D. Lovett, Bertha Mullins, Ron Nicholson and Joe F. Salinas.

MEMBERS ABSENT: None.

MEMBERS EXCUSED: None.

ALSO PRESENT: Ric Bailey – Chief Examiner; John Flansberg, Director of Public Works; Jerry Frederick – Local 39; Jo Ann Malugani – Civil Service Administrative Secretary; Thomas Metcalf – Public Works; Anthony Trujillo – Public Works; Susan Rothe – Deputy City Attorney and Renée Runġis – Human Resources Director.

2. APPROVAL OF AGENDA

It was moved by Commissioner Nicholson, seconded by Commissioner Mullins, to approve the May 3, 2010, agenda as written. The motion carried unanimously.

3. PUBLIC COMMENT *

None.

4. LIAISON REPORT *

None.

5. CONSENT AGENDA – A). Request to approve eligible list extension for Fire Battalion Chief.

It was moved by Commissioner Cole, seconded by Commissioner Salinas, to approve Consent Agenda Item A, as submitted. The motion carried unanimously.

6. REGULAR AGENDA

6-A. Consideration of request from John Flansberg, Director of Public Works, regarding an out of order layoff for Anthony Trujillo, Maintenance Technician, and possible approval thereof.

* denotes NON action item

Chief Examiner Bailey stated that this is the last section in our RIF rule, Rule XII. The layoff out of order is based on the principle that a department head will present to the Commission a request to consider a need that they have to enhance the efficiency of their departmental operations. John Flansberg, Director of Public Works, will begin by presenting his rationale to the Commission and then Mr. Trujillo will be able to state his ideas as to whether or not he agrees with the request.

John Flansberg, Director of Public Works, stated there are two items here tonight. One is there was a difference in how the calculations were made with the employees in question. There were five reductions in the Maintenance Technician position. When he received the list originally, all five with the least seniority were in Facilities Maintenance which is where all five reductions took place. Mr. Trujillo, as he understands, has had a protest in regards to how that was calculated. When it was recalculated, it was determined that originally Mr. Metcalf was given time prior to actually being put into the position due to the reclass based on the fact that he had been serving in that position prior to being reclassified.

Mr. Flansberg stated that they went back and looked at the process for reclassification. In July 2007 the job analysis questionnaires were filled out. Mr. Metcalf filled that out and turned it into his supervisor, and then it was reviewed and turned into Human Resources on August 2007. Through this process, it went to their consultant and their review and interview process. It was deemed that Mr. Metcalf was working out of class and that a reclassification was in order for the work he was performing in the Sewer and Storm section. The reclassification took effect the beginning of the next fiscal year, which was July 2008. In reviewing the time in classification, it was determined that Mr. Trujillo had less than six months more experience than Mr. Metcalf based on the July 2008 timeframe in which Mr. Metcalf was reclassified. Again, it was determined that employees have been working out of class for a certain amount of time prior to the reclass.

Mr. Flansberg explained that in Public Works they primarily have Maintenance Technicians within their Facilities Maintenance section. These are individuals that are hired to be responsible for a certain set of buildings. They generally bring a certain trade to their job such as plumbing, carpentry, electrical, painting and HVAC (heating, ventilation and air conditioning). In addition, they have three Maintenance Technicians that work for the Sewer/Storm section. Two of those technicians work on the lift stations that are used to move the sewage from a lower elevation to a higher elevation to continue it through a gravity system all the way to our wastewater treatment plant. The additional position is the one which Mr. Metcalf holds (which he was reclassified into).

Mr. Flansberg stated that the department classifies employees into the type of work they are doing. In this case when Mr. Metcalf was working in the shop, he was performing in those Maintenance Technician duties. In 2006 (calendar year), he was performing in that capacity about 50% of his time. In 2007 it was 75%; and the first six months of 2008, he was working about 90% in that shop criteria.

Mr. Flansberg stated that it is not a requirement in the Maintenance Technician position to have some of the job skills that Mr. Metcalf possesses. For instance, he has a Commercial Drivers License (CDL). Because he (Mr. Metcalf) has performed as a Maintenance Worker III prior to this,

he runs the trucks from time to time and is in the on-call rotation for the Sewer/Storm section. In addition, he holds certifications as a Grade I and Grade II Collection System Operator which is the safe handling of sewage and what to do in the case of an emergency. If we had a backup into a home and have raw sewage that has entered through a drain, he would be able to respond and know the correct steps to take. Mr. Metcalf is also a member of our Confined Space Rescue Team. As a Maintenance Technician, he has the responsibility over the trailer and all the equipment that is used.

Mr. Flansberg stated that for these reasons, they have requested that Mr. Metcalf, both whether or not the time in service he has actually been performing this job or the duties that he performs being unique to the position that he holds within the Sewer/Storm section, they believe the out of order request is warranted.

Anthony Trujillo stated that he was employed as a Maintenance Technician in Facilities Maintenance. He stated that he performed all the skilled trades with his emphasis on carpentry, roofing, fabrication and welding. He was the lead man on framing, roofing and fabrication projects. His supervisors and peers can attest to this. He was hired as a carpenter, but his supervisor soon found out that he has many other skills such as roofing, welding, diagnosing problems, researching and finding a way to fix problems. Mr. Trujillo stated that the way he interprets the Civil Service rules in layoffs is that his seniority was all in the Public Works Department. He stated that his skills will shine in whatever division he is assigned to. He was hired into Facilities Maintenance and assumed the lead role in numerous projects, even though he was only there for about two years. Mr. Trujillo stated that to get his job, he took a knowledge assessment test, scored high enough to get an interview and was hired on July 6, 2007. One year after he was hired, the City had an outside consultant firm perform a class and comp study and some employees were reclassified in June 2008. This should be their new classification seniority date. Mr. Trujillo stated he believes that he has the skills and intelligence to excel in all his duties no matter what division he is assigned to in Public Works. He is proficient in using all carpentry tools, and he can build anything out of wood. He can also fabricate anything out of just about any kind of metal. He can torch weld, arc weld, mig weld and pig weld just about any metal. His service truck was one of two in Building Maintenance to be equipped with a welder, and he routinely welded in the field and the shop. Mr. Trujillo stated that he has great problem solving and diagnostic skills, people skills and leadership skills. He believes that his skills as a Maintenance Technician are well above average.

Chair Lovett opened the meeting to public comment.

Jerry Frederick, Local 39, stated that no matter what the CSC decides tonight, somebody is going to lose their job. Mr. Frederick asked if there is an undue burden to the City that would justify laying somebody off out of order. From the memorandum addressed to the CSC, it appears that one of the major functions is welding and fabrication duties. In the job description, there is no requirement for a CDL, even though that is mentioned, and there is no call for a certification as a Grade I or Grade II collections operator. It's not part of the job – it's not in the description. It's not in the description to be in the Confined Space Rescue Team. That is a voluntary position for which they receive compensation. If Mr. Metcalf were to leave, they would ask if anybody else wants to

be on the team. Mr. Frederick stated that all things being equal, if they possess the same skills and abilities, seniority should count for something.

Tom Metcalf, Public Works Maintenance Technician, introduced himself and stated he would be happy to answer any questions. He stated that he has been with the City of Reno coming up on nine years. He has worked as a Maintenance Worker I, bypassed Maintenance Worker II and went to a Maintenance Worker III. Most of the time that he has been with the Sewer section, he has been performing the jobs that he has been doing now. Mr. Metcalf stated it just took this long. He put in for a reclass in 2004. He thinks he missed a couple of years and that was just a matter of what was going on as far as they weren't really reclassing anybody. There was an individual in the Street department, and they both did the same job. He put in for a reclass that specific year, and Mr. Metcalf did not. This individual was awarded the job in 2007. They both worked on sweepers, taking some of the load off the mechanics. They do have an individual in that department, and they both have taken care of the shop support. Management has not found anyone else to step into their shoes. He has been a welder for over 10 years (certified). He worked for Southwest Gas as a combination crew leader for 15 years.

Chair Lovett closed the public comment portion of the meeting.

Chair Lovett asked if Mr. Flansberg and Mr. Trujillo would like to make any additional statements.

Mr. Flansberg reiterated that he realizes that the job specifications do not ask for some of those certifications, but having them in the position that Mr. Metcalf performs is certainly an advantage to their department. The technical support that he provides has been invaluable.

Mr. Flansberg stated that Mr. Trujillo has performed well in his job as Maintenance Technician, and he is not here to state skills one over the other. In this case he would like to extol the skills Mr. Metcalf has and the time in service he has given the Sewer/Storm section in performing these duties. It's unfortunate that the reclass process took a year because we are talking less than six months difference from the time of confirmation for the two individuals.

Mr. Trujillo stated that if the CSC were to rule for him to come back to work that Tom is not going to leave. He will still work for sewage and will still be on the Confined Space Team. Mr. Trujillo asked if this was right and stated that he (Mr. Metcalf) would be a Maintenance Worker III.

Mr. Flansberg responded that we would have to go through the bumping process.

Mr. Trujillo stated that he feels that he can do anything that Tom does. He feels that he is a smart guy and a really good welder. The biggest part of what the Tech does in Sewers is welds and fabricates stuff.

Chair Lovett brought the discussion back to the table.

Chair Lovett stated that in the rules that length of time in service is important and is one of the

criteria that we use, but we also have the out of order layoff rule. The CSC is charged with looking at the rules and seeing if the evidence presented tonight is justification to grant the out of order request.

Commissioner Hooper asked Mr. Flansberg with the out of order that is in place, how many folks stand to lose jobs in the layoff process. Mr. Flansberg stated it will be one position, either this one or there will be a process that goes through the bumping rights.

Commissioner Atkinson stated that if the request is denied, there is only one layoff but there is disruption through the ranks. Chief Examiner Bailey confirmed that if the request is denied there will be three individuals affected. The most junior lower-level person would lose their job.

Commissioner Atkinson asked Mr. Flansberg the following questions:

- Q. Am I correct in my understanding that it is your position that Mr. Metcalf's certifications, while not necessarily a requirement of the job, actually bring value to the City.
- A. Absolutely.
- Q. If Mr. Metcalf is not retained, does Mr. Trujillo then go into Mr. Metcalf's position?
- A. That is the position that will be available, yes.
- Q. How long would it take to train Mr. Trujillo to function at the level that Mr. Metcalf functions today?
- A. With the training involved and study for those certifications, at least a year.
- Q. You mentioned in your memo, and it was spoken to here, that Mr. Metcalf has a Confined Space Entry. Is he certified in that or is that just the training on that?
- A. He is certified in that and to be certified you go through extensive training (meaning the knowledgeable part). Then you go through the exercises to receive the certification.
- Q. Is Confined Space Entry a part of the job in Sewer/Storm Drains?
- A. It is a function that we find ourselves in when we have a blockage in the sewer. There are times when the only way to get the blockage out is to send somebody down. There are times we work with the Fire Department on rescue operation. We would be able to assist with that. Having all the ventilation equipment, making sure everybody is properly tied off, all of the aspects that go with doing a confined space entry – all those things are handled within that training.
- Q. What is the consequence of not having confined space entry training?
- A. We can't go down and perform that work, so the consequence would be we would either have to retain someone who has those skills or certification to be there to actually perform that task. I'm personally not aware of who has certifications in the area, but Mr. Strunge is here tonight and Mr. Metcalf. They may know of others who have that. We handle that internally.
- Q. Does Mr. Metcalf also have training in (and I don't know that it is hazardous material, but sewage certainly is not your everyday material) the handling and exposure issues on that. Would that also be required?

- A. He does have that training, in fact that is part of the collection system Grade I and Grade II certification that he has in place.

Commissioner Atkinson: Thank you, those were my questions.

Commissioner Nicholson stated that the certifications, as he understands it, are a requirement for confined space entry. Isn't that correct. Could Mr. Trujillo, in the event it went that way, step into that role without certification?

John Flansberg: We wouldn't be able to have him operate on that team without him having gone through the training and holding that certification.

Commissioner Nicholson: Would you have a willingness to do that – can we ask that question or not? Would you have a willingness to pursue that?

Anthony Trujillo: Yeah, the whole time I've been employed here I try to get all the training that I can cause it makes you more rounded and you become a better employee that way. In Building Maintenance we didn't do that so I never took that training because that wasn't part of what I did. Given the chance, I'll take all the training I can get.

Chair Lovett stated that in terms of special skills, there's things that have been identified that's not part of the regular job description. These are additional things that would be beneficial. Is it possible for a person to not have this particular qualification, but still be employed with the City in this section?

John Flansberg: It would be possible not to have some of these certifications and perform in a similar job. We had that in our Street section where we had someone doing welding, fabricating and then doing adjustments to our sweepers. It's possible to have that without having certifications. In the Sewer/Storm section, it is certainly desirable to have these.

Chair Lovett: I'm not talking about not having the certification. I'm saying that if you have the certification, but you don't have a title because it's not of the job right now, but you have another job but you're certified. Would that prevent you from performing that function?

John Flansberg: Chair Lovett, I'm not sure I understand the question. You are saying if someone does not hold the certifications or they do?

Deputy City Attorney Susan Rothe: They do have the certifications.

Chair Lovett: They have the certification but they don't have that particular job they are in another area with the City. Would they be prohibited from performing that function if they are certified?

John Flansberg: For instance, we have people who have a CDL that work in different sections of the City. They have that and they are deemed if that is needed even if they work in Facilities or

another section they would have the opportunity to operate the truck under that license because they hold the license. So they would be able to do that. I'm not aware of anyone currently that has a Grade I/Grace II collections that is not working in the Sewer section.

Commissioner Nicholson: If I understand your question, what we are saying is if the bumping process occurred and the certifications were there could he perform them out of that classification?

Chair Lovett: Basically that was my question, but I think he understood because he gave me the CDL example which is no different than what I was saying. You are saying if the person has the qualification and it is necessary to utilize those skills then you would do it. So regardless what your job title is if you are certified in an area that the City needs you are saying that you would utilize that person.

John Flansberg: You certainly can. Sometimes we find ourselves in situations where we have to pay somebody out of class.

Commissioner Hooper: Out of the two individuals which one has the most time as an employee for the City of Reno?

John Flansberg: Mr. Metcalf has just shy of nine years. Mr. Trujillo has almost three.

Chair Lovett: But when we talk about time or service within the position, who has the most.

John Flansberg: Per my discussion, technically the date of the reclass, it's Mr. Trujillo. Looking through the time served in working in assignments that would be pertaining to this position, Mr. Metcalf would have at least six months additional time – hence the difficulty.

Commissioner Nicholson: This is just an observation, but if we were to look at seniority standing alone, somebody down the line would still lose their job, but the skill sets of both these gentlemen would be maintained and the value added to the City would be there. I think that has to be a consideration before we render a decision.

Chair Lovett: We are looking at probably down to the last senior person being impacted, and then the impact for the City could be minimal.

John Flansberg: It is a very difficult decision. When I did review all of the circumstances, I did make the request for the out of order layoff.

Chair Lovett brought the discussion back to the table.

Commissioner Atkinson: Basically what I have heard and what I have read: I think Mr. Flansberg has been very straight forward with us and as a Commission I don't think there is any subterfuge or axe to be ground or that kind of thing happening. I think that is important when an item like this comes to the table. The second thing I think that Mr. Trujillo is willing, but he is not ready. He is at

least a year away from performing at a level equivalent to what currently exists in Mr. Metcalf, and I think that Mr. Metcalf clearly possesses higher qualifications. I am specifically looking at the handling of waste material. It was mentioned that when we have sewer backups Mr. Metcalf can go on the response team going into those. I can tell you from experience sewer backups into the homes of citizens are extraordinarily difficult things to handle. Not only from the context that you've got sewer backing up into a home, but you also have a citizen involved and in some of those instances, at least in my experience, we have actually condemned homes as a result of it so you need someone today to be able to respond to that in a way that actually minimizes loss and also minimizes exposure to the sewage. I think confined space is also an incredibly important skill. That's a health safety issue from my perspective. The confined space training and ability to do it enables us to go into places and this is more prevalent in a lot of instances in sewer and storm drain. It would be very difficult for the department with the loss of that whole set of skills and the cost and effort of training a new individual. The difficulty here is that we have faces and we have people affected by the decision that we make, but I do find (at least in my own analysis of this) that the department's position is based in business reason and necessity. I think that the rule that allows for an out of order layoff is designed for those kinds of circumstances. It seems like it is a proper request in front of us.

Commissioner Cole: I think Jeannie's analysis is accurate, and it's persuasive too, but on the other side is the fact that this Commission has adopted the rule that is seniority based and the calculation of seniority is specified as well. Maybe we need to revisit this – maybe what we are seeing is, in actual practice, it's not the best way to deal with these kinds of situations. Information that we heard this evening and at the previous meeting gives us cause to wonder if that system is as effective as it was designed to be, but the rule is the rule and we decided that seniority is the primary factor although in certain circumstances we could authorize the out of order. I think what we really have is a battle between the situation at hand and the expectations that employees have been lead to believe for many years will be used if we arrive in this kind of situation. Now we are kind of picking and choosing and sometimes it will work and sometimes it won't work. I'm troubled by that inconsistency or what appears to me to be inconsistent. Although, of course, there is a rule that permits fluctuation and variation in certain circumstances.

Commissioner Nicholson: I think Jeannie's analysis is good, but the reason I asked the question the way I did is that to follow seniority still preserves the ability for the City to do that. They are still in the same department and if the sewer backs up we can have that gentleman perform that function and still be somewhat true. I don't see it as that great of distinction.

Chair Lovett: I kind of reserve my comments until last since I can't make a motion. When I look at the rule that we have in place, rules are there for a reason and we went through a process in order to make sure they were as fair as possible. In order to deviate from that, there has to be extenuating circumstances. Listening to the two testimonies that we listened to tonight that would be the determining factor. Is there enough to cause us to deviate from the rules? We have to be fair to the system. If we change or make an exception, it should be something that stands out. Maybe at some point we have to go back and look at the rules, but for tonight we are stuck with the rules the way that they are. The other thing that I heard tonight is that the function is not a part of

the essential duties of the job; it's something extra that would be nice that would be a benefit. Time in the position is critical. Deviation needs to be hard facts and if we deviate from the rules we need to have reason to do that because whatever we do it's going to set the tempo for the next change that comes before us.

Commissioner Atkinson: If I can just give a small rebuttal. I understand the use of rules and the consistent application of rules, but in this instance there is also another rule that allows for application different than the specific rule. So, you have to assume there was meaning behind the construction of those rules. You have to ask yourself the question, "Why?" From my perspective, as a Commission, we have multiple duties. We have a duty to employees to ensure that the employees are treated fairly, we have a duty to management to ensure that the rules don't bind them in ways that make operations impractical or difficult or impossible, and we also have a duty to bring in and to preserve the best possible employee in the work environment. Ultimately, that's the mission we are charged with. We do it through our testing; we do it through our retention rules and that type of thing. I believe where we are today is we are at a point of asking ourselves are we operating within the context of our rules. The answer is "Yes," if we do approve the out of order because we are allowed to do that. Are we operating in a way that is fair overall to the employees? We have an employee with three years and one with nine years that gets us back to the heart of what Maureen was talking about, that we may need to relook at our rules as a way of setting expectations in different ways in the future. And, are we operating in a way that actually promotes the effective and efficient operation of the City? We know from the testimony that they are a year behind if this out of order is not approved, then basically we haven't met our duties as a Commission. I think it's wrong for us to focus on one issue of consistency, but at the expense of the other issues of assuring fairness, assuring the City has the ability to operate and meet the demands of the citizens.

Chair Lovett: If the skills and abilities that you have mentioned were lost to the City, then I can see that happening, but they are not lost, they are here and can be utilized. The rules should be the rules. An exception should not be the rule. If there is an exception, then it should be something above and beyond what the duties are. If it's not in the job classification, it's not an essential job function, and if no one has made the request to have the job reclassified to me they are saying then the job is okay the way it is then people who are in those jobs and performing those jobs that's a matter of trust between the employee and the City in terms of these are the responsibilities. They either perform those functions or they don't. I really don't see a loss; I see that the City would actually keep those skills if and when it's necessary.

Commissioner Atkinson: I think you are confused here. I want to ask this question. If the out of order is not approved, then Mr. Metcalf gets reduced in class. He goes back to a different class. In order for the City to use that, they are using him out of class. Effectively, what we are saying (if we don't approve this) we are going to use you the same as we did up here, we are just not going to pay you for it, we're not going to recognize you in title.

Chair Lovett: Apparently they have used him or he has done that anyway.

Commissioner Atkinson: But that was corrected through the classification system. So what we would do by allowing him to go back in class is to simply say “Well, forget the fact we recognized that he performs at that level and that we should be paying him at that level. Because we can’t do that, we are just going to use him on the side.” So we are breaking a rule to retain that.

Chair Lovett: I don’t see us impacting a person that has nothing to do with that in terms of that rule. We are not breaking a rule. The rule is here. If somebody worked out of order before, they worked out of order before.

Commissioner Atkinson: Then they have to be reclassified.

Chair Lovett: Yes, but they should have been reclassified and the request should have been brought to us. It wasn’t. So, basically I don’t see one person impacted based on the decision.

Commissioner Atkinson: But here is the catch 22. You take him back in class, reduce him out of class, turn right around and reclass him or you are using him improperly according to the system.

Chair Lovett: But that is a management decision. They have to decide what they are going to do and how they are going to do it. We have one responsibility and management has another responsibility. Our responsibility would be to apply the rules the way they are and approve the exception to the out of order layoff if there is justification for it.

It was moved by Commissioner Nicholson, seconded by Commissioner Cole, to deny the request for the out of order layoff. The motion carried: Commissioners Cole, Mullins, Nicholson, Salinas and Chair Lovett assenting; Commissioners Atkinson and Hooper dissenting.

7. IDENTIFICATION OF FUTURE AGENDA ITEMS *

No items identified at this time.

8. SET NEXT MEETING DATE

The next regular meeting of the Civil Service Commission is Thursday, June 24, 2010, at 5:30 p.m.

9. ADJOURNMENT

Chair Lovett adjourned the meeting at 6:20 p.m.